

Remarks:

Reconsideration of the application is requested. Claims 36-44, 46-47, 49, 51-55, 57-60, and 69-76 remain in the application. Claim 53 has been amended. Claims 36-44, 46-47, 49, 57-60, and 69-76 were previously allowed.

In the penultimate paragraph on page two of the Office action, the Examiner rejected claims 53-55 and 51 as being obvious over O'Leary '373 under 35 U.S.C. § 103(a). The rejection has been noted and the claims have been amended in an effort to define more clearly the invention of the instant application. Support for the changes is found on page 7, line 13, of the specification.

Before discussing the prior art in detail, a brief review of the invention as claimed is provided. Amended claim 53 calls for, *inter alia*, a surgical procedure including the following steps:

inserting a first tubular member into the patient's body,

moving body tissue from a first location in the patient's body through the first tubular member to a sterile trap outside of the patient's body. (Emphasis added by Applicant.)

Applicant disagrees with the Examiner's analysis of the art. In particular, Applicant disagrees with how the Examiner attributed different particular features to the references.

With regard to rejected independent claim, claim 53, Applicant believes that the prior art relates to the features of the claims in the following general way:

- O'Leary '373 teaches moving allograft material from outside of a patient's body and delivering it to a location via a tube.
- Kambin '448 teaches using a tube to grind and remove intervertebral discs.
- Müller-Lierhem teaches adding bone growth factors to a graft before insertion.

None of the references teach collecting the removed material in a sterile trap.

More importantly, the prior art would not suggest to one with ordinary skill in the art using a sterile trap. A sterile trap is necessary when making an autograft because the collected tissue is being reinserted into the body (at least in part) and should be kept sterile.

In contrast, Kambin '448 teaches a corrective surgical technique in which material is removed. Kambin '448 does not contemplate reusing the removed material. Accordingly, Kambin '448 is silent as to the qualities of the vessel because the removed material is presumably being disposed as medical waste.

Therefore, because the references never involved a system for removing autograft material via tube and then reinserting the modified autograft material via tube, they would not suggest to one with ordinary skill in the art the step of collecting the removed material in a sterilized trap. In other words, the sterilized trap is an improvement that only becomes suggested when the invention (removal, processing, and reinsertion) are practiced together.

Accordingly, none of the references, whether taken alone or in any combination, either show or suggest the features of amended claim 53. Therefore, claim 53 is patentable over the art. Moreover, because all of the dependent claims are ultimately dependent on claim 1, they are believed to be patentable as well.

In view of the foregoing, reconsideration and allowance of claims 36-44, 46-47, 49, 51-55, 57-60, and 69-76 are solicited. In the event the Examiner should still find any of the claims to be unpatentable, please telephone counsel so that patentable language can be substituted.

Petition for extension is herewith made. The extension fee for response within a period of two months pursuant to Section 1.136(a) in the amount of \$230 in accordance with Section 1.17 is enclosed herewith.

Appl. No. 10/003,996
Amendment Dated March 3, 2008
Reply to Office Action of October 4, 2007

No additional fee is believed due. However, please charge any required fee (or credit any overpayments of fees) to the Deposit Account of the undersigned, Account No. 50-0601 (Docket No. 780-A02-14-8).

Respectfully submitted,

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